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AN ACT
RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT TO PROVIDE
THAT METROPOLITAN COURT JUDGES BE COVERED PURSUANT TO THE
JUDICIAL RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-12B-2 NMSA 1978 (being Laws 1992,
Chapter 111, Section 2) is amended to read:

"10-12B-2. DEFINITIONS. --As used in the Judicial
Retirement Act:

A. "association" means the public employees
retirement association provided for in the Public Employees
Retirement Act;

B. "board" means the retirement board provided for
in the Public Employees Retirement Act;

C. "current judge or justice" means a judge or
justice who occupied such an office on July 1, 1980 but who
elected to be covered under the provisions of the retirement
plan in effect at that time;

D. "dependent child" means a natural or adopted
child who is physically or mentally incapable of financial
self-support, regardless of age;

E. "educational retirement system" means the
retirement system provided for in the Educational Retirement

1 Act;

2 F. "effective date of retirement" means the first
3 day of the month following the month in which the member met
4 all requirements for retirement;

5 G. "former judge or justice" means a judge or
6 justice who occupied such an office prior to July 1, 1980 but
7 who had ceased to hold such an office prior to that date and
8 who elected to be excluded from the provisions of the
9 Judicial Retirement Act;

10 H. "former member" means a person no longer in
11 office who was previously covered pursuant to the provisions
12 of Sections 10-12-1 through 10-12-18 NMSA 1978, but who has
13 not retired pursuant to the provisions of the Judicial
14 Retirement Act and who has received a refund of member
15 contributions pursuant to the provisions of Sections 10-12B-1
16 through 10-12B-19 NMSA 1978;

17 I. "fund" means the judicial retirement fund;

18 J. "judge" means a judge of the metropolitan
19 court, district court or court of appeals of New Mexico;

20 K. "justice" means a justice of the supreme court
21 of New Mexico;

22 L. "member" means any judge or justice who is in
23 office and covered pursuant to the provisions of the Judicial
24 Retirement Act, or any person no longer in office who was
25 previously a judge or justice covered pursuant to the

1 provisions of the Judicial Retirement Act, who has not
2 retired and who has not received a refund of member
3 contributions from the fund;

4 M. "member contributions" means the amounts
5 deducted from the salary of a member and credited to the
6 member's individual account, together with interest, if any,
7 credited thereto;

8 N. "minor child" means a natural or adopted child
9 who has not reached his eighteenth birthday and who has not
10 been emancipated by marriage or otherwise;

11 O. "new judge or justice" means:

12 (1) a judge or justice who first occupied
13 such an office after July 1, 1980; or

14 (2) a judge or justice who occupied such an
15 office on or before July 1, 1980 and who has elected to be
16 covered under the provisions of the Judicial Retirement Act;

17 P. "pension" means a series of monthly payments to
18 a retired member or survivor beneficiary pursuant to the
19 provisions of the Judicial Retirement Act;

20 Q. "refund beneficiary" means a person designated
21 by the member, in writing in the form prescribed by the
22 association, as the person who would be refunded the member's
23 accumulated member contributions payable if the member dies
24 and no survivor pension is payable, or who would receive the
25 difference between pension paid and accumulated member

1 contributions if the retired member dies before receiving in
2 pension payments the amount of the accumulated member
3 contributions;

4 R. "retire" means to:

5 (1) terminate employment with all employers
6 covered by any state system or the educational retirement
7 system; and

8 (2) receive a pension from one state system
9 or the educational retirement system;

10 S. "retired member" means a person who has met all
11 requirements for retirement and who is receiving a pension
12 from the fund;

13 T. "salary" means the base salary or wages paid a
14 member, including longevity pay, for personal services
15 rendered; provided that salary does not include overtime pay;
16 allowances for housing, clothing, equipment or travel;
17 payments for unused sick leave, unless the unused sick leave
18 payment is made through continuation of the member on the
19 regular payroll for the period represented by that payment;
20 and any other form of remuneration not specifically
21 designated by law as included in salary pursuant to the
22 provisions of the Judicial Retirement Act;

23 U. "state system" means the retirement programs
24 provided pursuant to the provisions of the Public Employees
25 Retirement Act, the Magistrate Retirement Act and the

1 Judicial Retirement Act;

2 V. "surviving spouse" means the spouse to whom the
3 member was married at the time of the member's death;

4 W. "survivor beneficiary" means a person who
5 receives a pension or who has been designated to be paid a
6 pension as a result of the death of a member or retired
7 member; and

8 X. "years of service" means a period of time
9 beginning on the date a person commences to hold office as a
10 judge or justice because of appointment or election and
11 ending on the date a person ceases to hold office as a judge
12 or justice because of expiration of the judge's or justice's
13 term, voluntary resignation, death or disability and shall
14 include any fractions of years of service."

15 Section 2. Section 10-12B-3 NMSA 1978 (being Laws 1992,
16 Chapter 111, Section 3, as amended) is amended to read:

17 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
18 ADMINISTRATION OF FUND-- ACCOUNTING FUNDS. --

19 A. There is established in the state treasury the
20 "judicial retirement fund". The fund is comprised of money
21 received from docket and jury fees of metropolitan courts,
22 district courts, the court of appeals and the supreme court,
23 employer and employee contributions and any investment
24 earnings on fees and contributions. The board is the trustee
25 of the fund and shall administer and invest the fund.

1 Investment of the fund shall be conducted pursuant to the
2 provisions of the Public Employees Retirement Act. The
3 provisions of the Judicial Retirement Act shall be
4 administered by the board. The board is authorized to
5 promulgate rules. Expenses related to the investment of the
6 fund and administration of the Judicial Retirement Act shall
7 be paid from the fund.

8 B. For purposes of this section, the accounting
9 funds shall be known as the "member contribution fund",
10 "employer's accumulation fund", "retirement reserve fund" and
11 "income fund". The maintenance of separate accounting funds
12 shall not require the actual segregation of the assets of the
13 fund.

14 C. The accounting funds provided for in this
15 section are trust funds and shall be used only for the
16 purposes provided for in the Judicial Retirement Act.

17 D. The member contribution fund is the accounting
18 fund in which shall be accumulated contributions of members
19 and from which shall be made refunds and transfers of
20 accumulated member contributions as provided in the Judicial
21 Retirement Act. The member's court shall cause member
22 contributions to be deducted from the salary of the member
23 and shall remit the deducted member contributions to the
24 association in accordance with procedures and schedules
25 established by the association. The association may assess

1 an interest charge and a penalty charge on any late
2 remittance. Each member shall be deemed to consent and agree
3 to the deductions made and provided for in this section.
4 Contributions by members shall be credited to the members'
5 individual accounts in the member contribution fund. A
6 member's accumulated member contributions shall be
7 transferred to the retirement reserve fund when a pension
8 becomes payable.

9 E. The employer's accumulation fund is the
10 accounting fund in which shall be accumulated the
11 contributions paid by the state through the member's court.
12 The state, through the member's court, shall remit its
13 contributions to the association in accordance with
14 procedures and schedules established by the association. The
15 board may assess an interest charge and a penalty charge on
16 any late remittance.

17 F. The retirement reserve fund is the accounting
18 fund from which shall be paid all pensions to retired members
19 and survivor beneficiaries and all residual refunds to refund
20 beneficiaries of retired members and survivor beneficiaries.

21 G. Each year, following receipt of the report of
22 the annual actuarial valuation, the excess, if any, of the
23 reported actuarial present value of pensions being paid and
24 likely to be paid to retired members and survivor
25 beneficiaries and residual refunds likely to be paid to

1 refund beneficiaries of retired members and survivor
2 beneficiaries over the balance in the retirement reserve fund
3 shall be transferred to the retirement reserve fund from the
4 employer's accumulation fund.

5 H. The income fund is the accounting fund to which
6 shall be credited all interest, dividends, rents and other
7 income from investments of the fund, all gifts and bequests,
8 all unclaimed member contributions and all other money the
9 disposition of which is not specifically provided for in the
10 Judicial Retirement Act. Expenses related to the
11 administration of the Judicial Retirement Act shall be paid
12 for from the income fund.

13 I. The association shall at least annually
14 distribute all or a portion of the balance in the income fund
15 to the member contribution fund, the retirement reserve fund
16 and the employer's accumulation fund. Distribution rates
17 shall be determined by the board and may vary for the
18 respective accounting funds."

19 Section 3. Section 10-12B-11 NMSA 1978 (being Laws
20 1992, Chapter 111, Section 11) is amended to read:

21 "10-12B-11. EMPLOYER CONTRIBUTIONS. --

22 A. The member's court shall contribute nine
23 percent of salary for each member in office to the fund.

24 B. Thirty-eight dollars (\$38.00) from each civil
25 case docket fee paid in the district court, twenty-five

1 dollars (\$25.00) from each civil docket fee paid in
2 metropolitan court and ten dollars (\$10.00) from each jury
3 fee paid in metropolitan court shall be paid by the court
4 clerk to the employer's accumulation fund."

5 Section 4. Section 10-12C-2 NMSA 1978 (being Laws 1992,
6 Chapter 118, Section 2) is amended to read:

7 "10-12C-2. DEFINITIONS. --As used in the Magistrate
8 Retirement Act:

9 A. "association" means the public employees
10 retirement association provided for in the Public Employees
11 Retirement Act;

12 B. "board" means the retirement board provided for
13 in the Public Employees Retirement Act;

14 C. "dependent child" means a natural or adopted
15 child who is physically or mentally incapable of financial
16 self-support, regardless of age;

17 D. "educational retirement system" means the
18 retirement system provided for in the Educational Retirement
19 Act;

20 E. "effective date of retirement" means the first
21 day of the month following the month in which the member met
22 all requirements for retirement;

23 F. "former member" means a person no longer in
24 office who was previously covered pursuant to the provisions
25 of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has

1 not retired pursuant to the provisions of the Magistrate
2 Retirement Act and who has received a refund of member
3 contributions pursuant to the provisions of Sections
4 10-12C-1 through 10-12C-18 NMSA 1978;

5 G. "fund" means the magistrate retirement fund;

6 H. "magistrate" means a magistrate judge;

7 I. "member" means any magistrate who is in office
8 and covered pursuant to the provisions of the Magistrate
9 Retirement Act, or any person no longer in office who was
10 previously a magistrate covered pursuant to the provisions of
11 the Magistrate Retirement Act, who has not retired and who
12 has not received a refund of member contributions from the
13 fund;

14 J. "member contributions" means the amounts
15 deducted from the salary of a member and credited to the
16 member's individual account, together with interest, if any,
17 credited thereto;

18 K. "minor child" means a natural or adopted child
19 who has not reached his eighteenth birthday and who has not
20 been emancipated by marriage or otherwise;

21 L. "pension" means a series of monthly payments to
22 a retired member or survivor beneficiary pursuant to the
23 provisions of the Magistrate Retirement Act;

24 M. "refund beneficiary" means a person designated
25 by the member, in writing in the form prescribed by the

1 association, as the person who would be refunded the member's
2 accumulated member contributions payable if the member dies
3 and no survivor pension is payable, or as the person who
4 would receive the difference between pension paid and
5 accumulated member contributions if the retired member dies
6 before receiving in pension payments the amount of the
7 accumulated member contributions;

8 N. "retire" means to:

9 (1) terminate employment with all employers
10 covered by any state system or the educational retirement
11 system; and

12 (2) receive a pension from one state system
13 or the educational retirement system;

14 O. "retired member" means a person who has met all
15 requirements for retirement and who is receiving a pension
16 from the fund;

17 P. "salary" means the base salary or wages paid a
18 member, including longevity pay, for personal services
19 rendered; provided that salary does not include overtime pay;
20 allowances for housing, clothing, equipment or travel;
21 payments for unused sick leave, unless the unused sick leave
22 payment is made through continuation of the member on the
23 regular payroll for the period represented by that payment;
24 and any other form of remuneration not specifically
25 designated by law as included in salary pursuant to the

1 provisions of the Magistrate Retirement Act;

2 Q. "state system" means the retirement programs
3 provided pursuant to the provisions of the Public Employees
4 Retirement Act, the Magistrate Retirement Act and the
5 Judicial Retirement Act;

6 R. "surviving spouse" means the spouse to whom the
7 member was married at the time of the member's death;

8 S. "survivor beneficiary" means a person who
9 receives a pension or who has been designated to be paid a
10 pension as a result of the death of a member or retired
11 member; and

12 T. "years of service" means a period of time
13 beginning on the date a person commences to hold office as a
14 magistrate because of appointment or election and ending on
15 the date a person ceases to hold office as a magistrate
16 because of expiration of the magistrate's term, voluntary
17 resignation, death or disability and shall include any
18 fractions of years of service. "

19 Section 5. Section 10-12C-3 NMSA 1978 (being Laws 1992,
20 Chapter 118, Section 3, as amended) is amended to read:

21 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
22 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

23 A. There is established in the state treasury the
24 "magistrate retirement fund". The fund is comprised of money
25 received from docket fees of magistrate courts, employer and

1 member contributions and any investment earnings on fees and
2 contributions. The board is the trustee of the fund and
3 shall administer and invest the fund. Investment of the fund
4 shall be conducted pursuant to the provisions of the Public
5 Employees Retirement Act. The provisions of the Magistrate
6 Retirement Act shall be administered by the board. The board
7 is authorized to promulgate rules. Expenses related to the
8 investment of the fund and administration of the Magistrate
9 Retirement Act shall be paid from the fund.

10 B. For purposes of this section, the accounting
11 funds shall be known as the "member contribution fund",
12 "employer's accumulation fund", "retirement reserve fund" and
13 "income fund". The maintenance of separate accounting funds
14 shall not require the actual segregation of the assets of the
15 fund.

16 C. The accounting funds provided for in this
17 section are trust funds and shall be used only for the
18 purposes provided for in the Magistrate Retirement Act.

19 D. The member contribution fund is the accounting
20 fund in which shall be accumulated contributions of members
21 and from which shall be made refunds and transfers of
22 accumulated member contributions as provided in the
23 Magistrate Retirement Act. The member's court shall cause
24 member contributions to be deducted from the salary of the
25 member and shall remit the deducted member contributions to

1 the association in accordance with procedures and schedules
2 established by the association. The association may assess
3 an interest charge and a penalty charge on any late
4 remittance. Each member shall be deemed to consent and agree
5 to the deductions made and provided for in this section.
6 Contributions by members shall be credited to the members'
7 individual accounts in the member contribution fund. A
8 member's accumulated member contributions shall be
9 transferred to the retirement reserve fund when a pension
10 becomes payable.

11 E. The employer's accumulation fund is the
12 accounting fund in which shall be accumulated the
13 contributions paid by the state through the administrative
14 office of the courts. The state, through the administrative
15 office of the courts, shall remit its contributions to the
16 association in accordance with procedures and schedules
17 established by the association. The board may assess an
18 interest charge and a penalty charge on any late remittance.

19 F. The retirement reserve fund is the accounting
20 fund from which shall be paid all pensions to retired members
21 and survivor beneficiaries and all residual refunds to refund
22 beneficiaries of retired members and survivor beneficiaries.

23 G. Each year, following receipt of the report of
24 the annual actuarial valuation, the excess, if any, of the
25 reported actuarial present value of pensions being paid and

1 likely to be paid to retired members and survivor
2 beneficiaries and residual refunds likely to be paid to
3 refund beneficiaries of retired members and survivor
4 beneficiaries over the balance in the retirement reserve fund
5 shall be transferred to the retirement reserve fund from the
6 employer's accumulation fund.

7 H. The income fund is the accounting fund to which
8 shall be credited all interest, dividends, rents and other
9 income from investments of the fund, all gifts and bequests,
10 all unclaimed member contributions and all other money the
11 disposition of which is not specifically provided for in the
12 Magistrate Retirement Act. Expenses related to the
13 administration of the Magistrate Retirement Act shall be paid
14 for from the income fund.

15 I. The association shall at least annually
16 distribute all or a portion of the balance in the income fund
17 to the member contribution fund, the retirement reserve fund
18 and the employer's accumulation fund. Distribution rates
19 shall be determined by the board and may vary for the
20 respective accounting funds."

21 Section 6. Section 10-12C-11 NMSA 1978 (being Laws
22 1992, Chapter 118, Section 11) is amended to read:

23 "10-12C-11. EMPLOYER CONTRIBUTIONS. --

24 A. The state, through the administrative office of
25 the courts, shall contribute nine percent of salary for each

1 member in office to the fund.

2 B. Twenty-five dollars (\$25.00) from each civil
3 case docket fee paid in magistrate court and ten dollars
4 (\$10.00) from each civil jury fee paid in magistrate court
5 shall be paid by the court clerk to the employer's
6 accumulation fund. "

7 Section 7. EFFECTIVE DATE. --The effective date of the
8 provisions of this act is July 1, 2003. _____

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